

JAN 07 2020

FIFTH CIRCUIT
LYLE W. GAYNE, CLERK

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint Numbers: 05-19-90095 through 05-19-90097

M E M O R A N D U M

Complainant A (plaintiff in Case 1), Complainant B (plaintiff in Case 2), and Complainant C (their attorney), have filed related misconduct and disability complaints against the subject United States District Judge.

Complainant A and Complainant B, a father and son, are litigants in separate environmental mass tort lawsuits which have generated local media interest. A media report about rulings on defense motions to dismiss in Case 1 quoted Complainant B, who is a local councilman, as stating that the judge had no sympathy for the people of the region. The report erroneously described Complainant B as a plaintiff in Case 1 and incorrectly attributed to him Complainant A's symptoms as described in the lawsuit.

In Case 2, in an order granting the plaintiffs' motion to remand the matter to state court, the judge stated that the plaintiffs, "led by" Complainant B, resided in the region at issue and, in a related footnote, characterized Complainant B's reported comments as "egocentric and juvenile."

A month later in Case 1, in an order denying a defense motion to dismiss the plaintiffs' third amended complaint, the judge listed the plaintiffs' names and, in a footnote inserted after Complainant A's name, noted the court had previously addressed Complainant A's "petulant public comments."

The two footnotes appear to be aimed at Complainant B's comment reported by the media. Clearly, the second footnote misattributed Complainant B's statement to Complainant A.


The complainants allege that the judge's negative characterizations of Complainant A and Complainant B were gratuitous and were "intended to injure" them. Complainant C submits that the judge's "outrageous" comments lower the public confidence in the integrity of the courts and demonstrate disrespect for litigants. The complainants suggest that the judge might be mentally impaired.

Canon 2A of the Code of Conduct for United States Judges provides that "[a] judge . . . should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." The Commentary to Canon 2A notes that a judge must expect to be the subject of constant public scrutiny and accept freely and willingly restrictions that might be viewed as burdensome by the ordinary citizen.

Whether the footnotes were warranted or not, however, the judge's misattribution of Complainant B's reported comment to Complainant A, and the judge's demonstrated annoyance at the comment, do not rise to the level of being prejudicial to the effective and expeditious administration of the business of the courts and do not indicate a mental disability resulting in the inability to discharge the duties of judicial office.

The allegations are insufficient to raise an inference that misconduct has occurred, or that disability exists, and the complaints are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

An order dismissing the complaint is entered simultaneously herewith.


Priscilla R. Owen
Chief United States Circuit Judge

January 3, 2019

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-19-90097
Petition for Review by [REDACTED]
of the Final Order Filed January 07, 2020,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

United States Court of Appeals
Fifth Circuit

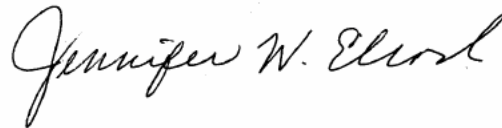
FILED

April 9, 2020

Lyle W. Cayce
Clerk

ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Priscilla R. Owen, filed January 07, 2020, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.
The Order is therefore **AFFIRMED**.



April 8, 2020
Date

Jennifer W. Elrod
Jennifer W. Elrod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit